

IN THE UNITED STATES DISTRICT COURT FOR THE  
SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

JACKIE FISHER §  
Plaintiff, §  
§  
vs. § CIVIL ACTION NO. 4:08-cv-01273  
§  
UNIVERSITY OF TEXAS § Jury Demanded  
MEDICAL BRANCH and §  
DAVID WATSON §  
Defendants. §

**PLAINTIFF'S UNOPPOSED MOTION TO MODIFY THE COURT'S SCHEDULING  
ORDER TO EXTEND THE MEDIATION  
DEADLINE AND REQUEST FOR STATUS CONFERENCE**

Plaintiff asks the court to modify the Scheduling Order as to the time to for the parties to attend mediation, as authorized by Federal Rule of Civil Procedure 16(b)(4).

A. Introduction

1. Plaintiff is Jackie Fisher; Defendants are the University of Texas Medical Branch (“UTMB”) and David Watson.
2. Plaintiff sued Defendants for Title VII racial discrimination and retaliation on April 25, 2008.
3. The Court issued a Docket Control Order on September 23, 2008.
4. The Defendants are not in compliance with the Court’s orders of September 23, 2008. The court ordered Defendants to provide disclosure documents to Plaintiff. Defendant UTMB has provided only select e-mails (finally served on January 23, 2009) in Response to Plaintiff’s First Request for Production. Defendant UTMB has never provided any Rule 26 disclosures, not even Plaintiff’s personnel file. Defendant Watson has provided only limited response in the way of e-mail copies and no other disclosures.
5. The court also ordered Defendants to name a senior official in Huntsville as the primary contact. As of January 20, 2009, Defendants’ counsel was unable to verify the name of such contact.
6. The Scheduling Orders requires that Plaintiff and Defendant complete mediation by January 30, 2009.

7. Plaintiff filed this motion to modify the scheduling order as soon as she became aware of the need to do so and before the mediation deadline.

B. Argument

8. The court may grant a request to modify the scheduling order for good cause. Fed. R. Civ. P. 16(b)(4).

9. Plaintiff requests an extension of time to mediate this case because Plaintiff has not received any Rule 26 disclosures from Defendant UTMB and very little from Defendant Watson. On September 23, 2008, this court ordered Defendants to make disclosures in this case. Despite Plaintiff's repeated requests for Defendants' disclosures, Plaintiff has only received a limited amount of documents from Defendant Watson and limited e-mails from Defendant UTMB. Mediation would be more valuable once full disclosure has taken place and Plaintiff has had the opportunity to evaluate the documents in Defendants' possession.

10. Plaintiff asks the court to extend the mediation deadline until after the discovery deadline of June 5, 2009 or until June 30, 2009.

11. Plaintiff further asks the court to set a date for a status conference within thirty days.

12. Plaintiff's request to modify the scheduling order is for good cause and is not intended to delay these proceedings. *See* Fed. R. Civ. P. 16(b)(4).

C. Conclusion

13. For good cause shown, Plaintiff asks the court to extend the time to mediate until after the discovery deadline of June 5, 2009 or until June 30, 2009 and to schedule a status conference within the next thirty days.

Respectfully submitted,

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By: /s/ Jo Miller  
JO MILLER  
State Bar No. 00791268  
Southern District No. 20385  
Attorney for Jackie Fisher, Plaintiff

## **VERIFICATION**

STATE OF TEXAS  
MONTGOMERY COUNTY

On this day, Jo Miller appeared before me, the undersigned notary public. After I administered an oath to her, upon her oath, she said that she read the foregoing document and that the facts stated in it are within her personal knowledge and are true and correct.

/s/ Jo Miller  
Jo Miller

SWORN TO and SUBSCRIBED before me by Jo Miller on January 27, 2009.

(Original on File in the  
LAW OFFICE OF JO MILLER, P.L.L.C. )

## **CERTIFICATE OF CONFERENCE**

I certify that on January 20, 2008, the parties have conferred and Defendants' counsel, Sam Lively, does not oppose the filing of this *Plaintiff's Unopposed Motion to Modify the Court's Scheduling Order and to Extend the Mediation Deadline and Request for Status Conference.*

/s/ Jo Miller  
**JO MILLER**  
Attorney for Plaintiff, Jackie Fisher

**NOTICE OF ELECTRONIC FILING**

I, Jo Miller, do hereby certify that I have electronically submitted for filing, a true and correct copy of the above and foregoing document in accordance with the Electronic Case Files System of the Southern District of Texas, on this the 27<sup>th</sup> day of January, 2009.

/s/ Jo Miller  
JO MILLER

**CERTIFICATE OF SERVICE**

I hereby certify that, a true and correct copy of the foregoing “*Plaintiff’s Unopposed Motion to Modify the Court’s Scheduling Order and to Extend the Mediation Deadline and Request for Status Conference*” was served electronically to:

Sam Lively  
Assistant Attorney General  
General Litigation Division  
P.O. Box 12548, Capitol Station  
Austin, Texas 78711  
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/s/ Jo Miller  
Jo Miller, Attorney for Jackie Fisher